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his property to another with intent to hinder, delay, or defraud the wife in the enforcement of her rights, such transfer is void under Code 1904, § 2458, whether or not she is a creditor in a technical sense.

6. Divorce (§ 276 (2)*)—Fraudulent Conveyances—Suit—Transferee of Notes as Party.—In a wife's suit for divorce and to set aside as fraudulent sale of property by defendant husband to his brothers, the wife's claim being against the property, though she was willing to take its value as agreed upon by notes given for it by the brothers to the husband, it was error to require the husband's transferee of the notes to come into the suit at all and defend; his claims and those of the wife being separate.

7. Courts (§ 99 (1)*)—Law of Case.—Refusal of an appeal from the action of the trial court in overruling the demurrer of two defendants to the bill settled the question adversely to defendant's claim, and became the law of the case, and cannot be again brought in question.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 646.]

8. Divorce (§ 276 (5)*)—Fraudulent Conveyances—Personal Decree Against Grantees.—On satisfactory proof of the participation of the grantees and purchasers in the fraud of the grantor and seller, it was competent for the court to have rendered a personal decree against them, in favor of the grantor's wife, suing him for divorce, for the amounts of their respective purchases, so that they were not injured by the decree requiring them to pay the amounts into court.

[Ed. Note.—For other cases, see 6 Va.-W. Va. Enc. Dig. 676.]

Appeal from Circuit Court, Lunenburg County.

Suit for divorce and to set aside fraudulent conveyance by Lavonia Ruth Crowder, by, etc., against W. Scott Crowder and others. From the decree, complainant appeals. Reversed and remanded.

N. S. Turnbull, Jr., of Victoria, and *W. Moncur Gravatt*, of Blackstone, for appellant.

L. O. Wendenburg, of Richmond, *Geo. E. Allen*, of Victoria, and *W. R. Jones* and *L. S. Epes*, both of Blackstone, for appellee.

JOHNSON et al. v. LAKE DRUMMOND CANAL & WATER CO. et al.

June 12, 1919.

[99 S. E. 771.]

Eminent Domain (§ 319*)—Canal Franchise—Condition of Use by Abutting Owners—Abandonment with Consent of Commonwealth.—The right of free use by owners of abutting lands by Act Feb. 9,

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

1839 (Laws 1839, c. 145), made a condition of the right thereby granted to condemn land for, and operate, a canal, while constituting an affirmative easement, the franchise constituting the servient estate, continues only so long as the condition remains imposed on the franchise; and there being no grant to nor contract with such abutting owners, the canal company may, with consent of the commonwealth, abandon exercise of the franchise in part, and grant a railroad right to construct a bridge across the canal, making navigation at the point impossible; and this though prior to construction of such canal, such lands had access to deep-water navigation, which was cut off by the canal, and though the contemplated future status of continued free use may have affected the quantum of damages in condemnation for the land for the canal.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 666.]

Appeal from Circuit Court, Norfolk County.

Suit by W. S. Johnson and others against the Lake Drummond Canal & Water Company and others. Bill dismissed, and complainants appeal. Affirmed.

N. T. Green, of Norfolk, and *R. H. Bagby*, of Portsmouth, for appellants.

Hughes, Little & Seawell and *Hugh C. Davis*, all of Norfolk, and *Theo. W. Reath*, of Philadelphia, Pa., for appellees.

AMERICAN TOBACCO CO. *v.* CITY OF RICHMOND.
SAME *v.* CITY OF DANVILLE.

June 12, 1919.

[99 S. E. 777.]

1. **Municipal Corporations (§ 966 (3)*)—Taxes—Intangible Property—Foreign Corporation.**—Tobacco, bought for purposes of manufacture, and held in Virginia by a foreign corporation having its chief office and business domicile in the city of Richmond, where it conducted its business of manufacturing tobacco in Virginia, was taxable, prior to Acts 1918, c. 101, as intangible property, in Richmond as its situs for taxation.

[Ed. Note.—For other cases, see 10 Va.-W. Va. Enc. Dig. 232.]

2. **Municipal Corporations (§ 971 (3)*)—Property Not Concealed or "Omitted"—Reassessment after Two Years—Statute.**—Tobacco of a foreign corporation, not actually concealed or omitted from taxation, but erroneously assessed and the taxes thereon collected by a city on the theory that it was tangible and not intangible property, was not property "omitted" from taxation to entitle the city, in 1917,

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.